

ASSEMBLY BILL

No. 1926

Introduced by Assembly Member Evans

February 16, 2010

An act to amend Sections 68150 and 68151 of the Government Code, relating to court records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1926, as introduced, Evans. Court records: preservation guidelines.

Existing law provides that court records may be preserved in any form, including electronic forms, as specified.

This bill would additionally authorize courts to create and maintain records in electronic forms, as specified.

Existing law requires that court records be preserved in accordance with standards or guidelines adopted by the American National Standards Institute or the Association for Information and Image Management.

This bill would delete these provisions and would instead require the Judicial Council to adopt rules to govern the creation, maintenance, reproduction, and preservation of court records, and would require that records be preserved in accordance with these rules.

Under existing law, “retain permanently” means that the original court record shall never be transferred or destroyed.

This bill would revise this definition to mean that the record shall be maintained in accordance with the rules established by the Judicial Council.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 68150 of the Government Code is amended to read:

68150. (a) Trial court records may be *created, maintained, and preserved* in any form or forms of communication or representation, including *paper*, optical, electronic, magnetic, micrographic, or photographic media or other technology capable of accurately producing or reproducing the original record according to minimum standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management technology, if the form or forms of representation or communication satisfy the requirements provided in subdivision (c).

Specifications

(b) *This section shall not apply to court reporters' transcripts or to specifications for electronic recordings made as the official record of the oral proceedings. These records shall be governed by the California Rules of Court. Electronic recordings made as the official record of oral proceedings shall not require a backup copy unless otherwise specified in the California Rules of Court.*

(c) *The Judicial Council shall adopt rules to establish the standards or guidelines for the creation, maintenance, reproduction, or preservation of court records, including records that must be preserved permanently.*

~~(b)~~

(d) No additions, deletions, or changes shall be made to the content of the record court records, except as authorized by statute or the California Rules of Court. ~~The~~

(e) Court records shall be indexed for convenient access.

~~(e)~~

(f) A copy of the a court record created, maintained, preserved, or reproduced according to subdivisions (a) and ~~(b)~~ (c) shall be deemed the an original court record and may be certified as a correct copy of the original record.

~~(d)~~

(g) A court record created, maintained, preserved, or reproduced in accordance with subdivisions (a) and ~~(b)~~ (c) shall be stored in a manner and in a place that reasonably assures its preservation

1 against loss, theft, defacement, or destruction for the prescribed
2 retention period under Section 68152. ~~Electronic recordings made~~
3 ~~as the official record of the oral proceedings shall not require a~~
4 ~~backup copy unless otherwise specified in the California Rules of~~
5 ~~Court.~~

6 ~~(e) The~~

7 ~~(h) A court record that was created, maintained, preserved, or~~
8 ~~reproduced in accordance with subdivisions (a) and (b) (c) may~~
9 ~~be disposed of in accordance with the procedure under Section~~
10 ~~68153, unless it is subject to subdivision (f): either of the following:~~

11 ~~(f) The following court records may be preserved or reproduced~~
12 ~~under subdivisions (a) and (b) but shall also be preserved on paper,~~
13 ~~microfilm, or in another form of communication or representation~~
14 ~~approved by and in accordance with standards that are defined as~~
15 ~~archival by the American National Standards Institute for the~~
16 ~~duration of the record's retention period:~~

17 ~~(1) The A comprehensive historical and sample superior court~~
18 ~~records record preserved for research under the California Rules~~
19 ~~of Court.~~

20 ~~(2) Court records A court record that are is required to be~~
21 ~~preserved permanently.~~

22 ~~Court records that must be preserved longer than 10 years but~~
23 ~~not permanently may be reproduced on media other than paper or~~
24 ~~microfilm using technology authorized under subdivisions (a) and~~
25 ~~(b). However the records shall be reproduced before the expiration~~
26 ~~of their estimated lifespan for the medium in which they are stored~~
27 ~~as specified in subdivision (g):~~

28 ~~(g)–~~

29 ~~(i) Instructions for access to data stored on a medium other than~~
30 ~~paper shall be documented. Each~~

31 ~~(j) Each court shall conduct a periodic review of the media in~~
32 ~~which the court records are stored to assure that the storage medium~~
33 ~~is not obsolete and that current technology is capable of accessing~~
34 ~~and reproducing the records. The court shall reproduce records~~
35 ~~before the expiration of their estimated lifespan for the medium~~
36 ~~in which they are stored according to minimum the standards and~~
37 ~~or guidelines for the preservation and reproduction of the medium~~
38 ~~adopted by the American National Standards Institute or the~~
39 ~~Association for Information and Image Management established~~
40 ~~by the Judicial Council.~~

1 ~~(h) Court~~

2 (k) *Unless otherwise provided by law, court records created,*
3 *maintained, preserved, or reproduced under subdivisions (a) and*
4 ~~(b) (c)~~ *shall be made reasonably accessible to all members of the*
5 *public for viewing and duplication as would the paper records.*
6 *Reasonable provision shall be made for duplicating the records at*
7 *cost. Cost shall consist of all costs associated with duplicating the*
8 *records as determined by the court.*

9 SEC. 2. Section 68151 of the Government Code is amended
10 to read:

11 68151. The following definitions apply to this chapter:

12 (a) “Court record” shall consist of the following:

13 (1) All filed papers and documents in the case folder, but if no
14 case folder is created by the court, all filed papers and documents
15 that would have been in the case folder if one had been created.

16 (2) Administrative records filed in an action or proceeding,
17 depositions, paper exhibits, transcripts, including preliminary
18 hearing transcripts, and recordings of electronically recorded
19 proceedings filed, lodged, or maintained in connection with the
20 case, unless disposed of earlier in the case pursuant to law.

21 (3) Other records listed under subdivision (j) of Section 68152.

22 (b) “Notice of destruction and no transfer” means that the clerk
23 has given notice of destruction of the superior court records open
24 to public inspection, and that there is no request and order for
25 transfer of the records as provided in the California Rules of Court.

26 (c) “Final disposition of the case” means that an acquittal,
27 dismissal, or order of judgment has been entered in the case or
28 proceeding, the judgment has become final, and no postjudgment
29 motions or appeals are pending in the case or for the reviewing
30 court upon the mailing of notice of the issuance of the remittitur.

31 In a criminal prosecution, the order of judgment shall mean
32 imposition of sentence, entry of an appealable order (including,
33 but not limited to, an order granting probation, commitment of a
34 defendant for insanity, or commitment of a defendant as a narcotics
35 addict appealable under Section 1237 of the Penal Code), or
36 forfeiture of bail without issuance of a bench warrant or calendaring
37 of other proceedings.

38 (d) “Retain permanently” means that the ~~original~~ court records
39 shall ~~never be transferred or destroyed~~ *be maintained permanently*

- 1 *according to the standards or guidelines established pursuant to*
- 2 *subdivision (c) of Section 68150.*

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